

REMAKRS:

Careful consideration has been given to the Official Action of February 19, 2008 and reconsideration of the application as amended is respectfully requested.

Claim 1 has been amended to overcome the grammatical objection (see enclosed excerpt from American Heritage Book of English usage). Claim 15 has also been amended similarly.

Claims 1 and 13-14 stand rejected under 35 USC 102(b) as being allegedly anticipated by DE 4304091 A1 (Frenkel).

Claims 1, 9, and 15 stand rejected under 35 USC 102(b) as being allegedly anticipated by US Patent No. 1,460,927 (Thompson).

Claim 16 stand rejected under 35 USC 103(a) as being allegedly unpatentable over Frenkel in view of US Patent No. 5,665,053 (Jacobs).

In response, claim 1 has been amended to recite that the central portion has a plurality of holes for lifting a portion of the skin.

New claims 17-21 have been added to recite the configuration of the central portion, two lateral portions, and the central holes. Support for these recitations can be found, for

example, in Figs. 5-8.

New claim 23 has been added and it substantially corresponds to original claim 6.

New claims 22 and 24 have also been added to recite the features of the projections on the lateral portions. Support for these recitations can be found, for example, in Figs. 5-8.

The claims as now presented are patentable over the references cited by the Examiner as will be discussed hereinafter.

The claimed invention is directed to a skin message device having a membrane that includes a central portion having a plurality of holes and two lateral portions thicker than the central portion. The two lateral portions each has two projections, and are movable by the vacuum generated inside the chamber during operation. These features enable the claimed invention to achieve numerous therapeutic benefits by combining suction with specially shaped projections. Particularly, Applicant has discovered that the simultaneous presence of three aligned holes (see new claim 18), and the two lateral portions which are thicker than the central portion and each having two projections, achieves an effective lifting, folding, compressing, and smoothing action on the patient's skin.

These features are not disclosed in any of the references cited by the Examiner.

Frenkel is directed to a device in which a membrane (203) and an ultrasound emitting

device are housed in a casing. However, Frenkel does not teach or suggest a central portion having a plurality of holes (all the figures only show a central opening). Furthermore, while Frenkel shows convex lateral portions, Frenkel does not teach or suggest any projections on the lateral portions.

Thompson is directed to a handheld massager which can be deformed (collapsed) to create a vacuum therewithin and forming suction between the diaphragm and the skin. To achieve this, Thompson provides a vacuum cup structure made of relatively soft or resilient rubber and a diaphragm serving as a closure therefor and of relatively unyieldable material (column 1, lines 15-21). Clearly, Thompson specifically teaches away from the deformable membrane provided by the claimed invention and the lateral portions which are movable by a variable vacuum generated inside the chamber. Furthermore, Thompson requires the user to create the vacuum and does not provide any vacuum generating device or any means for producing a variable vacuum in the chamber.

The Examiner's comments that "the device is disposable because a user can inherently throw it away, thus disposing of the membrane" is respectfully not well taken. The claimed invention, as recited in claim 9, provides a disposable membrane so that only the surface which comes into contact with the patient can be easily and cheaply replaced for obvious sanitary reasons. This is clearly distinguished from, and provides clear advantages over the device of Thompson wherein the rubber body and the rigid diaphragm are vulcanized to be united in a substantially integral manner (column 2, lines 90-98). Nevertheless, claim 9 has been amended to recite more clearly that the membrane is disposable separately from the

device.

Jacobs was cited by the Examiner for disclosure of an ultrasound emitting device housed in a central through hole. However, Jacobs still cannot fulfill the deficiencies of Frenkel and Thompson as discussed above. Furthermore, with respect to the rejection of claims 10, and 13-14, it is respectfully submitted that one skilled in the art would not combine Thompson with Jacobs in the manner proposed by the Examiner because, as discussed above, Thompson requires a deformable (collapsible) housing, which would not be suitable for mounting an ultrasound generator therewithin.

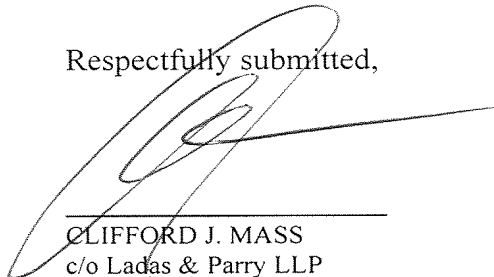
With respect to new claims 17 and 18, as discussed above, neither Frenkel nor Thompson teaches or suggests a central portion having a plurality of holes, and each is thus necessarily silent with respect to the disposition of the holes.

With respect to new claims 19-21, it is noted that Frenkel does not teach or suggest that the central portion or the lateral portions extend transversely across a surface of the membrane. These features are also clearly distinguished from the circular disposition of the grooves 7 and ridges 6 of Thompson's device.

As to new claims 22-24, these claims recite the features of the projections on the lateral portions which further distinguish over Frenkel and Thompson, which are silent with respect to any projections on the lateral portions.

In view of the above action and comments, it is respectfully submitted that the application is in condition for allowance and early notification thereof is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Clifford J. Mass", written over a horizontal line.

CLIFFORD J. MASS
c/o Ladas & Parry LLP
26 West 61st Street
New York, New York 10023
Reg. No. 30,086
Tel. No. (212) 708-1890